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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,337	07/31/2001	Roger A. Stern	019519-000310US	4149
20350	7590	02/03/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EISEN, ALEXANDER	
			ART UNIT	PAPER NUMBER
			2674	

DATE MAILED: 02/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/920,337

**Applicant(s)**

STERN ET AL.

**Examiner**

Alexander Eisen

**Art Unit**

2674

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 32-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-14, 32 and 34 is/are rejected.
- 7) ☒ Claim(s) 7 and 33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3-5, 8 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Fateh et al., (Fateh), US 6,076,928, reference of record.

With respect to claim 1 Fateh discloses a computer system 100 (FIGS. 11-12) for monitoring the use of a display by a user and having a display (102) performing a task; a first sensor 104 positioned relative to the display and selected from a group consisting of a distance sensor 350 and a light sensors 350 and 106-112 (can be holograms or gratings); and a means for automatically notifying a user when a user is not at a proper viewing distance (see col. 5, lines 6-12; FIG. 12; col. 7, ll. 10-20).

As to claim 3 the display in Fateh is one of CRT, LCD and a flat panel.

As to claims 4 and 11, the sensor is incorporated into a supporting structure of the display and placed on the top of the display.

As to claim 5, the system further comprises at least three light sensors to determine a source of multi-directional light relative to a user (col. 3, ll. 53-64).

As to claim 8, the system comprises a computer for processing inputs from the sensor (col. 7, lines 7-20).

As to claim 10, the sensor is positioned to monitor the display depending on the display distance from the user (col. 7, ll. 20-34, for instance).

As to claim 12, Fateh shows a keyboard (FIG. 5a, for example), which is a remote input device.

As to claim 13, the sensor is a distance sensor (col. 7, lines 2-7).

As to claim 14, the sensor can be a light sensor (e.g. infrared).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fateh in view of Richardson (both references are of record).

Wit regards to claims 2 and 9 Fateh discloses a computer system for monitoring the use of a display by a user and having a display 102 performing a task; a first sensor 104 positioned relative to the display and selected from a group consisting of a distance sensor 350 and a light sensors 350 and 106-112; and a means for automatically notifying a user when a user is not at a proper viewing distance.

Fateh does not disclose however a communication link between the system and a computer system accessible by hypertext protocol, or that the sensor is connected to the system through a cable.

Richardson teaches a computer system having light sensors for controlling a computer (FIG. 2), wherein the system is connected to the Internet (col. 4, lines 18-31), the imaging sensors (112 and 122) housed in a headset (70) is connected to the computer through a cable (62); and the system is capable of monitoring blink rate (FIG. 18; col. 4, lines 38-46).

Connecting computers for variety of tasks to the Internet is well known in the art, and it would have been obvious to one of ordinary skill in the art at the time when the invention was made to improve the system of Fateh by the teachings of Richardson, i.e. by adding the ability to be connected to the Internet, because it would enhance the computer abilities while being within the common knowledge without bringing about any unexpected result, since most known computer systems are connected to the Internet anyway.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fateh in view of Kochanski, US 5,854,661.

Fateh does not disclose that the first sensor includes an incorporated camera or an incorporated image sensor.

Kochanski teaches a display system having a camera mounted on the display, which is used, among other things, to measure a distance between the display and light source or a user.

It would have been obvious to one of ordinary skill in the art at the time when the invention was made that using suggested by Kochanski a camera as a light sensor in Fateh would be beneficial to the latter, because besides the measuring a distance it would allow to eliminate undesirable reflection images (col. 2, ll. 12-32; FIGS. 2-3).

6. Claims 32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over NEC SOFTWARE LTD, ("NEC"), JP 2000-098991 (reference of record).

With respect to claims 32 and 34 NEC discloses a system for monitoring the use of a display by a user using the display for performance of a task, the system comprising a display, a first sensor positioned close to the display, and selected from a group consisting of a distance sensor 13 and a light sensor 12; a second sensor distinct from the first sensor (one or the other of 12 and 13); a software program for processing inputs from the first sensor and for displaying patterns, wherein the distance sensor measures viewing distance and the light sensor measures ambient light.

While NEC does not specifically disclose that a pattern displayed can be a test pattern, since the system is capable to accommodate different users with various profiles, it would have been obvious to one of ordinary skill in the art at the time when the invention was made that the system is capable of displaying a test pattern to a particular user likeness for a user to decide if the settings of the display is acceptable.

***Allowable Subject Matter***

7. Claims 7 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: none of the references have been found that suggested a modification of or a combination with the cited prior art so as to satisfy the limitations of claims 7 and 33; none of the prior art, either singularly or in combination, teach or fairly suggest a system for monitoring the use of a display by a user as claimed in claim 1 and wherein the first sensors includes an incorporated camera, which is capable of monitoring blink rate; none of the prior art suggest a system for monitoring

the use of a display by a user as in claim 32, wherein the test pattern is usable for at least one test selected from the group consisting of a visual acuity test, a visual field test, an amplitude of accommodation test and a color sensitivity test.

***Response to Arguments***

9. Applicant's arguments have been fully considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Eisen whose telephone number is (703) 306-2988. The examiner can normally be reached on M-F (8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached on (703) 305-4938. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alexander Eisen  
Primary Examiner  
Art Unit 2674

18 January 2005